



22 JAN 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450  
www.uspto.gov

Martin Fleit  
FLEIT KAIN GIBBONS GUTMAN & BONGINI  
601 Brickell Key Drive, Suite 404  
Miami, Florida 33131

In re Application of: :  
Waltham et al. : DECISION ON  
Application No.: 10/088,811 : PETITION  
PCT No.: PCT/GB00/03634 : UNDER 37 CFR 1.137(b)  
Int. Filing Date: 22 September 2000 :  
Priority Date: 24 September 1999 :  
Docket No.: 722-X02-022 :

For: A METHOD OF MANUFACTURING :  
FLEXIBLE MAGNETIC TAPE :

This is in response to the petition filed 03 December 2003 under 37 CFR 1.137 (b) to revive the above-identified abandoned application for "unintentional" delay.

### **BACKGROUND**

On 22 September 2000, applicants filed international application PCT/GB00/03634, which claimed priority to an earlier application, filed 24 September 1999. A Demand for international preliminary examination was timely filed. Accordingly, the thirty month period for paying the basic national fee in the United States expired at midnight on 24 March 2002.

On 21 March 2002, a transmittal letter for entry into the national stage in the United States (From PTO-1390) was filed along with the \$510.00 basic national fee (small entity) required by 35 USC 371(c)(1) and 37 CFR 1.492(a)(1). The transmittal letter further includes an authorization to charge Deposit Account No. 500601 for any additional fees which may be required. An executed oath or declaration was not submitted.

On 07 June 2002, a "Notification of Missing Requirements Under 35 USC 371" was mailed to the applicant indicating an oath or declaration must be furnished in compliance with 37 CFR 1.497(a) and (b).

On 03 December 2003, the present petition was submitted with, inter alia, an executed declaration and the petition fee of \$665.00.

### **DISCUSSION**

A petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, (2) the petition fee required by 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, and (4) a terminal disclaimer with disclaimer fee

Application No.: 10/088,811

(only for utility and plant applications filed before 08 June 1995).

Regarding items (1) and (2), applicants furnished the required reply and the petition fee of \$665.00 payable via counsel's Deposit Account No. 500601.

Regarding item (3), the petition includes a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

Regarding item (4), because applicants' filing date of 22 September 2000 is after 08 June 1995, the requirement of a terminal disclaimer with disclaimer fee is not applicable in this case.

Accordingly, applicants have satisfied each of the requirements of 37 CFR 1.137(b).

A surcharge of \$65.00 (small entity) for submitting Declaration executed by the inventor later than 30 months from the priority date of 24 September 1999 will be charged to the counsel's Deposit Account No. 500601.

A review of the application file reveals that with the filing of the present petition and declaration of the inventors, and with the payment of the late surcharge, the requirements of 35 USC 371 have now been satisfied.

01/23/2004 MKAYPAGH 00000166 500601 10088811

01 FC:2617

65.00 DA

### CONCLUSION

The request to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED**.

The application has an international filing date of 22 September 2000 under 35 USC 363, and a 35 USC 371 date of **03 December 2003**.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further review and processing in accordance with this communication.



Shih-yung Hsieh  
PCT Legal Detailee  
PCT Legal Office  
Telephone: (703) 308-6162  
Facsimile: (703) 308-6459



Richard Cole  
PCT Legal Examiner  
PCT Legal Office